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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,229	09/16/2003	Stephen J Brown	03-0930 / 7553.00098	2228

60683 7590 12/31/2008
HEALTH HERO NETWORK, INC.
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EXAMINER

RAJ, RAJIV J

ART UNIT	PAPER NUMBER
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3686

MAIL DATE	DELIVERY MODE
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12/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,229	Applicant(s) BROWN, STEPHEN J	
	Examiner RAJIV J. RAJ	Art Unit 3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>16 July 2008, 03 September 2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on 11 September 2008.
2. Claims 1, 3-4, 6-11, 17-18, 20, 22, 30, 33, 35-36, 39-40, 44-45, 47-48, 50-55, 61-62, 64, 66, 72, 76-77, 79-79-81, 83-84 & 89 have been amended.
3. Claims 90-93 have been added.
4. Claims 1-93 are currently pending and have been examined.

Information Disclosure Statement

5. Information Disclosure Statements filed on 16 July 2008 and 03 September 2008 have been considered. Initialed copies of Forms 1449 are enclosed herewith.

Priority

6. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-12, 17-20, 22-43, 45-55, 61-64, 66-87, and 89-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen, III (US 4731726) (hereinafter Allen) in view Beckers (US 5019974) (hereinafter Beckers).

7. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claim 1

Allen as shown, discloses the following limitations:

- *at least one microprocessor device including a display;* (see at least Allen Fig:1 Item:12 & related text)

- *and a memory; (see at least Allen Fig:2 Items:152-154 & related text)*
- *at least one central server connected to receive health-related data communicated to the microprocessor device; (see at least Allen Column:4 Lines:51-63)*
- *at least one health care professional computer, remotely located from and in signal communication with the central server; (see at least Allen Fig:4 Items:100-106)*
- *the system is configured to (a) monitor at least one health condition; and (b) enable one or more programs to be provided from the central server to the microprocessor device for the monitoring, the programs being executed by the microprocessor device; (see at least Allen Claim:5 Fig:4 Items:10, 100-114 & related text)*

Allen does not disclose the following limitations, however Beckers, as shown does:

- *receive health-related information based on the patient health-related data received from the handheld microprocessor device, wherein (see at least Beckers Claim:1(a))*

It would have been obvious to one of ordinary skill in the art to add this feature into Allen. One of ordinary skill in the art would have added this feature into Allen with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

Claim 2

The combination of Allen/Beckers disclose all of the limitations of claim 1. Beckers further discloses the following limitation:

- *stored program instructions for generating health-monitoring related information on the display* (see at least Beckers Column:2 Lines:21-38)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

Claim 3

The combination of Allen/Beckers disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *the microprocessor device is capable of displaying pictorial health-monitoring related information* (see at least Allen Column:3 Lines:52-63)

Claim 4

The combination of Allen/Beckers disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *the microprocessor device is capable of displaying animated health-monitoring related information;* (see at least Allen Column:3 Lines:52-63)

Claim 5

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the memory is a program cartridge (see at least Allen Fig:1, Fig:2 Items:152-154 & related text)*

Claim 6

The combination of Allen/Beckers disclose all of the limitations of claim 4. Allen further discloses the following limitation:

- *wherein the microprocessor device includes buttons, keys or switches (see at least Allen Fig:1 Item:11 & related text)*

Claim 7

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *at least one health-monitoring device arranged to communicate health-related data to the central computer; (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)*

Claim 8

The combination of Allen/Beckers disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *a data management unit configured to (i) facilitate collection of the patient health-related data from the health monitoring device and (ii) transfer the programs from*

the central server to the microprocessor device; (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10, 100-114 & related text)

Claim 9

The combination of Allen/Beckers disclose all of the limitations of claim 8. Allen further discloses the following limitation:

- *the data management unit facilitates collection of health-related data by receiving data related to the monitored condition from at least one of the health-monitoring devices (see at least Allen Column:1 Lines:50-68)*

Claim 10

The combination of Allen/Beckers disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *at least one of the health-monitoring devices includes one or more of a blood glucose monitor; a peak flow meter; a blood pressure monitor; a pulse monitor; and a body temperature monitor (see at least Allen Column:4 Lines:35-41)*

Claim 11

The combination of Allen/Beckers disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *at least one personal computer connected to the data management unit (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)*

Claim 12

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *one report based on the health-related data* (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)

Claim 17

The combination of Allen/Beckers disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *wherein the central server can generate the report;* (see at least Allen Fig:4 Items: 100-114 & related text)

Claim 18

The combination of Allen/Beckers disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *the system is configured to cause the presentation of at least one report on the display;* (see at least Allen Fig:4 Items: 102,110,114 & related text)

Claim 19

The combination of Allen/Beckers disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *wherein the system can display statistical and/or trend information* (see at least Allen Fig:1 Items:10 & related text)

Claim 20

The combination of Allen/Beckers disclose all of the limitations of claim 19. Allen further discloses the following limitation:

- *wherein the system can display the statistical or the trend information to the patient;* (see at least Allen Fig:1 Items:10 & related text)

Claim 22

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system is configured to transmit at least one message to the microprocessor device for viewing on the display;* (see at least Allen Column:1 Lines:6-11, Fig:1 Items:10& related text)

Claim 23

The combination of Allen/Beckers disclose all of the limitations of claim 22. Beckers further discloses the following limitation:

- *wherein the message includes step-by-step instructions* (see at least Beckers Claim 1(c))

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers.

One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

Claim 24

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message includes results of a test* (see at least Allen Column:6 Lines:53-61)

Claim 25

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *the message includes diagnostic information indicating whether a test has proceeded in a normal fashion* (see at least Allen Column:15 Lines:50-62)

Claim 26

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message is a multi-line message* (see at least Allen Column:11 Lines:4-14)

Claim 27

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *the message is a health care professional selected message* (see at least Allen Fig:4 Items:100, 104, 110-112 & related text)

Claim 28

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the health care professional generates the selected message* (see at least Allen Fig:4 Items:100, 104, 110-112 & related text)

Claim 29

The combination of Allen/Beckers disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message is a educational or motivational* (see at least Allen Fig:4 Items:112, related text & Column:10 Lines:7-12 "The monitor is able to collect dietary information in three different way. The physician will specify which way the monitor should ask about food intake to reflect the way best suited for the individual patient based on his motivation and education in quantifying dietary intake.")

Claim 30

The combination of Allen/Beckers disclose all of the limitations of claim 27. Allen further discloses the following limitation:

- *wherein the system is configured to transmit the message to a specific patient;* (see at least Allen Fig:4 Items:112-114 & related text)

Claim 31

The combination of Allen/Beckers disclose all of the limitations of claim 27. Allen further discloses the following limitation:

- *wherein the system is configured to transmit the message automatically to the patient* (see at least Allen Fig:4 Items:112-114 & related text)

Claim 32

The combination of Allen/Beckers disclose all of the limitations of claim 27. Allen further discloses the following limitation:

- *wherein the system enables the patient to choose when to receive the message* (see at least Allen Column:10 Lines:35-36 "Then the patient selects the review data option by pressing the RD key.")

Claim 33

The combination of Allen/Beckers disclose all of the limitations of claim 27. Allen further discloses the following limitation:

- *wherein the message can be stored in the central server before being transmitted to the patient;* (see at least Allen Column:14 Lines:19-23)

Claim 34

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system is configured to allow the patient to control the display of information using at least one menu* (see at least Allen Fig:2 Fig:4 Items:150-150a & related text)

Claim 35

The combination of Allen/Beckers disclose all of the limitations of claim 34. Allen further discloses the following limitations:

- *a display mode for displaying relevant information;* (see at least Allen Fig:1 Items:12 & related text)
- *an input mode for providing information; and* (see at least Allen Fig:1 Items:11 & related text)
- *a communications mode for establishing a link with the central server* (see at least Allen Fig:4 Items:10, 100-110 & related text)

Claim 36

The combination of Allen/Beckers disclose all of the limitations of claim 31. Allen further discloses the following limitation:

- *the menu allows a patient to select a monitoring mode in which at least one health-monitoring device is used to monitor at least one health condition;* (see at least Allen Column:11 Lines: 41-55)
- *to communicate data related to the monitored condition to the central server;* (see at least Allen Fig:2 Items:66, Fig:4 Items:10-102-106 related text)

Claim 37

The combination of Allen/Beckers disclose all of the limitations of claim 34. Allen further discloses the following limitation:

- *wherein the menu allows the patient to display messages or instructions from a health care professional* (see at least Allen Column:4 Lines:11-15)

Claim 38

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system is configured to enable the patient to respond to information on the display by using a cursor or other indicator positioned at a selected item* (see at least Allen Column:4 Lines:50-67)

Claim 39

The combination of Allen/Beckers disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system is configured to enable the programs to be provided from the central server, to the microprocessor device in response to an input received at the microprocessor device;* (see at least Allen Fig:4 Items:10, 100-114 & related text)

Claim 40

The combination of Allen/Beckers disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the patient can indicate user experienced symptoms to the microprocessor device;* (see at least Allen Column:9 Lines:5-11)

Claim 41

The combination of Allen/Beckers disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system can capture quantitative measurements* (see at least Allen Abstract: "A monitor system is provided which includes means for measuring blood glucose values and for generating glucose data signals, monitor means coupled to the measuring means and including means for inputting patient data, means for transmitting and receiving data to and from the monitor means, and computing means for receiving glucose data signal in connection with administration treatment for diabetes mellitus.")

Claim 42

The combination of Allen/Beckers disclose all of the limitations of claim 41. Allen further discloses the following limitation:

- *wherein the system can capture medication data* (see at least Allen Column:2 Lines:28-47)

Claim 43

The combination of Allen/Beckers disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the collected patient health-related data includes time data* (see at least Allen Column:6 Lines:19-27 "The data thus entered sets a time value into the timer and "Channel O" signal from shift register output 12 subsequently initiates operation of the timer. Upon timeout of the timed interval timer 52 sends a signal to the MPU I/O control terminal B7, whereupon MPU takes the appropriate

action, such as producing a "beep" sound through audio unit 13 and triggering a prescribed software routine to give the patient the necessary prompts, etc.")

Method claims 45-55, 61-64, 66-87, and 89 disclose substantially similar limitations as those found in system claims 1-12, 17-30, & 22-43, and are rejected on the same grounds as stated above.

8. Claims 13-16, 21, 44, 57-60, 65, and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view Beckers in further view of Yamamoto (US 4685059) (hereinafter Yamamoto).

Claim 13

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein at least one report is standardized* (see at least Yamamoto Fig:4 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 14

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *system is configured to allow a health care professional to select which of a plurality of standardized reports is produced* (see at least Yamamoto Column:15 Lines:5-28)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 15

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report uses graphs and/or icons* (see at least Yamamoto Fig:5 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 16

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report can be generated periodically* (see at least Yamamoto Column:5 Lines:29-68 & Column:6 Lines:1-12)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 21

The combination of Allen/Beckers disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report includes information data for a period of time* (see at least Yamamoto Fig:2, 4 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 44

The combination of Allen/Beckers disclose all of the limitations of claim 1. Yamamoto further discloses the following limitation:

- *the healthcare professional receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user* (see at least Yamamoto Column:5 Lines:13-28)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers. One of ordinary skill in the art would have added this feature into Allen/Beckers with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Method claims 57-60, 65, and 88 disclose substantially similar limitations as those found in system claims 13-16, 21 & 44 and are rejected on the same grounds as stated above.

Response to Arguments

9. Applicant's arguments received on 11 September 2008 have been fully considered but they are not persuasive. Applicants' arguments will be addressed herein below in the order in which they appear in the response filed 11 September 2008.
10. In response to applicant's argument that Allen and Beckers are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Examiner respectfully disagrees with applicant's assertion that the cited prior art is non-analogous. Allen and Beckers are directed towards health monitoring devices, used to measure and process a patient's health related data, which is also the stated objective of applicant's invention. In addition, Examiner points out that Allen and Beckers are reasonably pertinent to the claim language of applicant's invention.
11. As per claims 1, 45 & 89, applicant argues that the cited prior art (Allen Fig:4 Items:100-106) do not teach applicant's claimed "health care professional computer". Examiner respectfully disagrees. The cited prior art includes a physician-operated networked-computer, and since a physician is analogous to a "health care professional", Examiner maintains this rejection.

12. As per claims 1, 45 & 89, applicant argues that the cited prior art (Beckers Column:2 Lines:21-38) do not teach applicant's claimed "enable one or more programs to be provided from the central server to the microprocessor device for the monitoring, the programs being executed by the microprocessor device", and that reference Allen does not cure this deficiency of Beckers. Examiner respectfully disagrees, and points to the language of claim 5 of reference Allen: "means for measuring blood glucose values and for generating blood glucose data in response to measuring said blood glucose values; monitor means, connected to said measuring means and capable of receiving, storing and evaluating data, for (a) receiving and storing said blood glucose data, (b) receiving and storing physician-supplied data, (c) prompting and receiving patient input into the monitor means at periodic times of patient data relating to diet, exercise, emotional stress and symptoms of hypoglycemia and other illness experienced by the patient during a preceding time period, (d) receiving and storing the patient data supplied by the patient, and (e) generating recommendations relative to patient insulin dosage based at least in part upon the received blood glucose data, physician data and patient data." Examiner asserts that this is a clearly analogous to applicant's claim language, and reminds applicant to consider the entire piece of art when interpreting a rejection of claims on prior art.
13. As per claims 8 & 52, applicant argues the claim language "a data management unit configured to (i) facilitate collection of the patient health-related data from the health monitoring device and (ii) transfer the programs from the central server to the

microprocessor device" are independently patentable over the cited references, specifically cited by Applicant (Allen Column:1 Lines:50-68). Examiner respectfully disagrees. Citing the specific passages in the prior art, Examiner points out that applicant's claim language "(i) facilitate collection of the patient health-related data from the health monitoring device" is taught by prior art language "the present invention is to provide an apparatus for accurately recording blood glucose data and other relevant treatment values. Another object of the invention is to provide an apparatus for processing patient glucose data values in terms of a physician-prescribed algorithm." Citing the specific passages in the prior art, Examiner points out that applicant's claim language "(ii) transfer the programs from the central server to the microprocessor device" is taught by prior art language "apparatus for transferring a patient's blood glucose data values over a communications channel to a physician's base computer station." Thus, Examiner maintains this rejection.

14.As per claims 11 & 54, applicant argues these claims are independently patentable over the prior art, based on arguments made for claim 1 references, therefore this argument is rejected on the same grounds.

15.As per claims 11 & 54, applicant argues claim language "at least one personal computer connected to the data management unit" is not taught by the cited references. Examiner respectfully disagrees citing Allen Fig. 4 Items:10, 102-106 as a clear example of "a personal computer connected to a data management unit", thus Examiner maintains this rejection.

16. Applicant's arguments with respect to claims 39 and 83 have been considered but are moot in view of the new ground(s) of rejection. The cited claim language was not present in the Applicant's initial application and has been rejected by cited prior art in this rejection.

17. As per claims 39 & 83, applicant's argument that the prior art does not teach an invention capable of "transferring programs from the computer 102 to the monitor unit 10", Examiner respectfully disagrees. Examiner reminds applicant that prior art references must also be considered in combination, and points out that Allen Fig:2 & Fig:4 clearly teach system capable of transferring programs to/from multiple computer devices and Beckers Column:2 Lines21-38, clearly teaches incorporating programs into a computer device". Thus Examiner maintains this rejection.

18. As per claims 2-44 & 46-88, applicant makes the same general arguments found in claims 1 & 45, and are rejected for on the same grounds

19. As per new claims 90-93, applicant makes the same general arguments found in claims 1 & 45, and are rejected for on the same grounds. Further, applicant's arguments with respect to claims 90-93 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to RAJIV J. RAJ whose telephone number is (571) 270-3930. The examiner can normally be reached on Monday thru Friday 8-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone

number for the organization where this application or proceeding is assigned is (571) 273-8300.

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12/08/08

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